

169 FERC ¶ 61,167
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Alcoa Power Generating Inc.

Docket No. ER20-6-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE SCHEDULE AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued November 29, 2019)

1. On October 1, 2019, Alcoa Power Generating Inc. (Alcoa) submitted a rate schedule (Rate Schedule), pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² which sets forth its cost-based annual revenue requirement (Revenue Requirement) for the provision of Reactive Service and Voltage Control from Generation or Other Sources Service (Reactive Service) from the Warrick Unit 4 generating unit in the Midcontinent Independent System Operator, Inc. (MISO) region.³ In this order, we accept Alcoa's proposed Rate Schedule, suspend it for a nominal period, to become effective December 1, 2019, the first day of the month immediately following acceptance of the Revenue Requirement by the Commission,⁴ as requested, subject to refund, and set the Rate Schedule for hearing and settlement judge procedures.

I. Background

2. Alcoa states that it is a wholly-owned subsidiary of Alcoa Corporation. Alcoa states that it owns and operates limited generation and transmission facilities in various locations throughout the United States that are principally used in conjunction with Alcoa's primary focus of providing electric power to aluminum manufacturing facilities

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. § 35.13 (2019).

³ Alcoa Power Generating Inc., FERC FPA Electric Tariff, APGI MBR Tariff, [Reactive Power, Rate Schedule No. 1, 0.0.0](#).

⁴ See MISO, FERC Electric Tariff, SCHEDULE 2, Reactive Supply and Voltage Control From Generation or Other (36.0.0), § III.A.5.

owned by Alcoa. Alcoa states that it owns and operates three 150 MW behind-the-meter coal-fired generation units (Warrick Units 1-3) and jointly owns and operates, with Southern Indiana Gas and Electric Company, Inc. (Southern Indiana), Warrick Unit 4, a 323 MW coal-fired generation facility. Alcoa states that Warrick Unit 4 began commercial operations in December 1970 and was last rebuilt in May 2019. Alcoa states that it sells capacity and energy from Warrick Unit 4 to which it possesses contractual rights pursuant to agreements with Southern Indiana in the MISO regional wholesale market.⁵

3. Alcoa explains that under these agreements, the companies are tenants-in-common, with each having an undivided 50 percent interest in the facility. Alcoa states that the costs of operating the unit are likewise common but are allocated based on how each company's share is dispatched. Alcoa asserts that the underlying numbers, which represent each company's share of the costs of owning and operating Warrick Unit 4, including the costs of providing reactive power service from the unit, are nearly identical, with minor variations resulting from differences in the parties' respective accounting practices.⁶

4. Alcoa states that on March 29, 2019, in Docket No. ER19-1488-000, Southern Indiana submitted revisions to its reactive power rate schedule proposing a revenue requirement for the provision of Reactive Service from certain Southern Indiana generating units in the MISO region, including Warrick Unit 4. Specifically, Southern Indiana proposed an annual revenue requirement of \$564,156.54 for Warrick Unit 4. On May 30, 2019, the Commission accepted Southern Indiana's proposed rate schedule, suspended it for a nominal period, effective June 1, 2019, subject to refund, and set the rate schedule for hearing and settlement judge procedures.⁷ Alcoa notes that Southern Indiana's revenue requirement for Warrick Unit 4 only reflected Southern Indiana's costs associated with providing Reactive Service, which was 50 percent of the total costs.⁸

5. In the instant filing, Alcoa proposes an annual Revenue Requirement for Reactive Service for the other 50 percent of Warrick Unit 4, \$564,156.54, or \$47,013.05 on a monthly basis.

⁵ Alcoa Filing at 2.

⁶ *Id.*

⁷ *S. Ind. Gas and Electric Co., Inc.*, 167 FERC ¶ 61,190 (2019).

⁸ Alcoa Filing at 3.

6. Alcoa states that while Southern Indiana's revenue requirement for Warrick Unit 4 is subject to refund, Alcoa requests that the Commission not set the instant matter for immediate hearing and settlement judge procedures, but instead suspend such measures pending the outcome of the settlement procedures in Docket No. ER19-1488-000. Alcoa commits to adopting the same reactive power revenue requirement for Warrick Unit 4 that results from the hearing and settlement judge procedures ordered in Docket No. ER19-1488-000.⁹

7. Alcoa requests waiver of filing cost support data required by section 35.13 of the Commission's regulations "in light of the cost data submitted by [Southern Indiana] in Docket No. ER19-1488-000," and if waiver is not granted, Alcoa "incorporates by reference the cost data for Warrick Unit 4" filed by Southern Indiana in that docket.¹⁰

II. Notice of Filing and Responsive Pleading

8. Notice of Alcoa's filing was published in the *Federal Register*, 84 Fed. Reg. 53,430 (2019), with interventions and protests due on or before October 22, 2019. MISO and Southern Indiana filed timely motions to intervene.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

10. We find that Alcoa's proposed Rate Schedule raises issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures ordered below. Our preliminary analysis indicates that Alcoa's proposed Rate Schedule has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept Alcoa's proposed Rate Schedule for filing, suspend it for a nominal period, to be effective December 1, 2019, as requested, subject to refund, and establish hearing and settlement judge procedures.

⁹ *Id.* at 6.

¹⁰ *Id.* at 9, referencing Southern Indiana Reactive Power Filing in Docket No. ER19-1488-000, Exhibit Nos. EV-003 through VS-021.

11. Although we are setting the Rate Schedule for hearing and settlement judge procedures in its entirety, we note that information provided in Alcoa's filing raises concerns about the justness and reasonableness of Alcoa's proposed Rate Schedule, including, but not limited to, its reliance on Southern Indiana's cost support provided in Docket No. ER19-1488-000 for the generator/exciter allocator, accessory electric equipment allocator, and heating losses, and its reliance on Southern Indiana's costs that may be company specific, such as cost of capital. In addition, Alcoa relies on Southern Indiana's cost support which utilizes the MISO-wide return on equity of 10.32 percent in determining the cost of capital; we find that the proposed return on equity should be subject to the outcome of the MISO-wide return on equity proceeding.¹¹ Further, we deny Alcoa's request to not set the Rate Schedule for hearing and settlement judge procedures, and to instead adopt the reactive power revenue requirement resulting from the hearing and settlement judge procedures in Docket No. ER19-1488-000, as we find that Alcoa's Rate Schedule should be based on company-specific cost support.

12. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures commence. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹² If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.¹³ The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

¹¹ See *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,129 (2019).

¹² 18 C.F.R. § 385.603 (2019).

¹³ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Commission orders:

(A) Alcoa's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective December 1, 2019, as requested, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Alcoa's Rate Schedule, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2019), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish

procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.